

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4807-04
Bill No.: SB 1077
Subject: Contracts and Contractors; Liability
Type: Original
Date: February 25, 2008

Bill Summary: Modifies statute that limits indemnity agreements in construction work contracts.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on General Revenue Fund	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the following agencies indicated this proposed legislation would have no fiscal impact on their respective agencies: **Department of Labor and Industrial Relations; Department of Insurance, Finance, and Professional Regulation; Office of Administration - Administrative Hearing Commission.**

Officials from the **Office of Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Office of State Courts Administrator** state this proposal has no fiscal impact on the Courts.

Officials from the **Department of Transportation (MoDOT)** assume that, under current §434.100 RSMo, most indemnity clauses for construction work are considered void and against public policy. The current statute contains nine exceptions to the general rule that these types of indemnity agreements are void. Under this proposed legislation, the general prohibition against indemnity agreements is expanded to specifically prohibit agreements which require one party to insure or defend in lawsuits the other party and such party's officers, employees, or agents from negligent actions arising under the contract. The current law only specifically prohibits agreements that indemnify or hold harmless another person from that person's own negligence.

MoDOT officials assume this proposal attempts to modify the additional insured exception by providing that the anti-indemnity prohibition does not apply to a party's promise to purchase project-specific insurance policies, other types of protective liability insurance policies, or builder's risk insurance.

MoDOT officials state that the Missouri Standard Specifications for Highway Construction require contractors to add the Missouri Highway Transportation Commission (MHTC) as an additional insured on its general liability policy. Research indicated at the time this was implemented, there would be at no additional cost to contractors, but, even if there was, MHTC paid for that additional cost through the bidding process. MoDOT officials assume this proposal jeopardizes this contractual practice and that the negative fiscal impact is unknown.

Oversight assumes a negative fiscal impact is speculative and therefore, assigns no fiscal impact to MoDOT.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

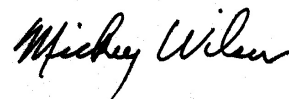
FISCAL DESCRIPTION

The proposed legislation appears to have no fiscal impact.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator
Office of Administration
 Administrative Hearing Commission
Department of Transportation
Department of Insurance, Finance, and Professional Regulation
Department of Labor and Industrial Relations



Mickey Wilson, CPA
Director

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